

1 GARY M. RESTAINO
2 United States Attorney
3 District of Arizona
4 KEVIN D. SCHIFF
5 Assistant U.S. Attorney
6 United States Courthouse
405 W. Congress Street, Suite 4800
Tucson, Arizona 85701
Telephone: 520-620-7300
Email: Kevin.Schiff@usdoj.gov
Attorneys for Plaintiff

FILED	LODGED
RECEIVED	COPY
DEC - 5 2024	
CLERK U.S. DISTRICT COURT DISTRICT OF ARIZONA	
DEPUTY	

7 IN THE UNITED STATES DISTRICT COURT
8 FOR THE DISTRICT OF ARIZONA

9 United States America,
10
11 Plaintiff,

12 vs.

13 Manuel David Mora Garcia,
14 Defendant.

No. CR 24-41200(R)

PLEA AGREEMENT

15
16 The United States of America and the defendant agree to the following disposition
17 of this matter:

18 PLEA

19 The defendant agrees to plead guilty to Count 3 of the Indictment, charging the
20 defendant with a violation of 18 U.S.C. §§ 922(g)(5)(B) and 924(a)(2), Receipt of Firearm
21 by an Alien, a felony. Any remaining counts will be dismissed at the time of sentencing.

22 ELEMENTS OF THE OFFENSE AND SENTENCING FACTOR

- 23 1. The defendant knowingly received firearm(s);
24 2. That firearm had been shipped or transported in interstate commerce;
25 3. The defendant knew at the time he received the firearm he a was a non-immigrant
26 alien.

27 Maximum Penalties

28 A violation of 18 U.S.C. §§ 922(g)(5)(B) and 924(a)(2), is punishable by a

1 maximum fine of \$250,000, or a maximum term of imprisonment of ten (10) years, or both,
2 plus a term of supervised release of three years and a special assessment of \$100; the special
3 assessment is due and payable at the time the defendant enters the plea of guilty, and must
4 be paid by the time of sentencing unless the defendant is indigent. If the defendant is
5 indigent, the special assessment will be collected according to Title 18, United States Code,
6 Chapters 227 and 229.

7 The defendant will pay upon conviction an additional \$5,000 special assessment
8 pursuant to 18 U.S.C. § 3014(a), unless the Court determines that the defendant is indigent.

9 The Court is required to consider the Sentencing Guidelines in determining the
10 defendant's sentence. However, the Sentencing Guidelines are advisory, and the Court is
11 free to exercise its discretion to impose any reasonable sentence up to the maximum set by
12 statute for the crime(s) of conviction, unless there are stipulations to the contrary that the
13 Court accepts.

14 Immigration Consequences

15 The defendant recognizes that pleading guilty may have consequences with respect
16 to the defendant's immigration status if the defendant is a recently naturalized United States
17 citizen or is not a citizen of the United States. Under federal law, a broad range of crimes
18 are removable offenses, including the offense(s) to which the defendant is pleading guilty.
19 Although there may be exceptions, the defendant understands that the defendant's guilty
20 plea and conviction for this offense make it practically inevitable and a virtual certainty
21 that the defendant will be removed or deported from the United States. The defendant
22 agrees that the defendant has discussed this eventuality with their attorney. The defendant
23 nevertheless affirms that the defendant wants to plead guilty regardless of any immigration
24 consequences that this plea entails, even if the consequence is the defendant's automatic
25 removal from the United States.

26 AGREEMENTS REGARDING SENTENCE

27 1. Stipulations regarding sentencing. Pursuant to Fed. R. Crim. P. 11(c)(1)(C),
28 the parties agree that:

1 a. Any prison sentence shall not exceed the low-end of the final advisory
2 Sentencing Guidelines Range;

3 b. The parties agree that the defendant shall receive a two level variance,
4 reducing the total offense level, pursuant to 18 U.S.C § 3553(a);

5 c. The parties agree that the defendant was an average participant in the
6 offense for the purpose of role analysis under U.S.S.G. §§ 3B1.1, 3B1.2;

7 d. The parties agree that any specific offense characteristic pursuant to
8 U.S.S.G. § 2K1.1 that are not explicitly stipulated to as part of the elements of the
9 offense, in the factual basis, nor elsewhere in this plea, may be contested by either
10 party at sentencing;

11 e. The defendant agrees not to seek any other adjustments in Chapters
12 Two, Three or Four of the Sentencing Guidelines or any “departures” from the
13 Sentencing Guidelines. The defendant acknowledges that if the defendant seeks any
14 such adjustment or departure, the government may withdraw from the plea;

15 f. Nothing in this agreement precludes the defendant from asking for a
16 variance from the final advisory Sentencing Guidelines Range.

17 2. Recommendation: Acceptance of Responsibility. Pursuant to Fed. R. Crim.
18 P. 11(c)(1)(B), if the defendant makes full and complete disclosure to the U.S. Probation
19 Office of the circumstances surrounding the defendant’s commission of the offense, and if
20 the defendant demonstrates an acceptance of responsibility for this offense up to and
21 including the time of sentencing, the United States will recommend a two-level reduction
22 in the applicable Guidelines sentencing offense level pursuant to U.S.S.G. § 3E1.1(a). If
23 the defendant has an offense level of 16 or more, the United States will move for an
24 additional one-level reduction in the applicable Sentencing Guidelines offense level
25 pursuant to U.S.S.G. § 3E1.1(b).

26 3. Non-Binding Recommendations. The defendant understands that
27 recommendations under Fed. R. Crim. P. 11(c)(1)(B) are not binding on the Court. The
28 defendant further understands that the defendant will not be permitted to withdraw the

1 guilty plea if the Court does not follow a recommendation.

2 4. Assets and Financial Responsibility. The defendant shall make a full
3 accounting of all assets in which the defendant has any legal or equitable interest. The
4 defendant shall not (and shall not aid or abet any other party to) sell, hide, waste, spend, or
5 transfer any such assets or property before sentencing, without the prior approval of the
6 United States (provided, however, that no prior approval will be required for routine, day-
7 to-day expenditures). The defendant also expressly authorizes the United States Attorney's
8 Office to immediately obtain a credit report as to the defendant in order to evaluate the
9 defendant's ability to satisfy any financial obligation imposed by the Court. The defendant
10 also shall make full disclosure of all current and projected assets to the U.S. Probation
11 Office immediately and prior to the termination of the defendant's supervised release or
12 probation, such disclosures to be shared with the U.S. Attorney's Office, including the
13 Financial Litigation Program, for any purpose. Finally, the defendant shall participate in
14 the Inmate Financial Responsibility Program to fulfill all financial obligations due and
15 owing under this agreement and the law.

16 5. The defendant understands that if the defendant violates any of the conditions
17 of the defendant's supervised release, the supervised release may be revoked. Upon such
18 revocation, notwithstanding any other provision of this agreement, the defendant may be
19 required to serve a term of imprisonment or the defendant's sentence may otherwise be
20 altered.

21 6. The defendant and the government agree that this agreement does not in any
22 manner restrict the actions of the government in any other district or bind any other United
23 States Attorney's Office.

24 7. The defendant understands and agrees to cooperate fully with the United
25 States Probation Office in providing (a) all criminal history information, i.e., all criminal
26 convictions as defined under the Sentencing Guidelines; (b) all financial information, i.e.,
27 present financial assets or liabilities that relate to the ability of the defendant to pay a fine
28 or restitution; (c) all history of drug abuse which would warrant a treatment condition as

1 part of sentencing; and (d) all history of mental illness or conditions which would warrant
2 a treatment condition as part of sentencing.

3 8. If the Court, after reviewing this plea agreement, concludes any provision is
4 inappropriate, it may reject the plea agreement pursuant to Rule 11(c)(5), Fed. R. Crim. P.,
5 giving the defendant, in accordance with Rule 11(d)(2)(A), Fed. R. Crim. P., an opportunity
6 to withdraw defendant's guilty plea.

7 Forfeiture, Civil, and Administrative Proceedings

8 a. Defendant acknowledges the foregoing assets have been administratively
9 forfeited by the Department of Homeland Security, U.S. Customs and Border Protection:
10 seven (7) Century Arms AK-47 variant 7.62x39 rifles, four (4) Pioneer Arms AK-47
11 variant 7.62x39 rifles, one (1) Riley Defense, Inc. AK-47 variant 7.62x39 rifle, twelve (12)
12 AK-47 magazines, and one (1) 7.62x39mm caliber round ammunition.

13 b. Defendant knowingly and voluntarily waives all constitutional, legal and
14 equitable defense to the forfeiture of the assets in any proceeding. Defendant agrees to
15 waive any jeopardy defense or claim of double jeopardy, whether constitutional or statutory
16 and agrees to waive any claim or defense under the Eighth Amendment to the United States
17 Constitution, including any claim of excessive fine, to the forfeiture of the assets by the
18 United States. The defendant also waives all statutory deadlines, including but not limited
19 to deadlines set forth in 18 U.S.C. § 983.

20 c. Defendant knowingly and voluntarily agrees to hold the United States, its
21 agents and employees harmless from any claims whatsoever in connection with the seizure
22 or forfeiture of the above-listed assets.

23 d. Defendant knowingly and voluntarily agrees and understands the
24 administrative forfeiture of the assets listed above shall not be treated as satisfaction of any
25 assessment, fine, restitution, cost of imprisonment, or any other penalty this Court may
26 impose upon the defendant.

27 e. Defendant further agrees and understands that the government will dispose
28 of the assets as authorized by law, which may include destruction of the seized items. The

1 defendant agrees that the items may be destroyed by the investigative agency with or
2 without a court order authorizing the destruction of the items seized. If the United States
3 determines that a destruction order should be obtained, the defendant and defendant's
4 counsel hereby concur in a motion for such an order.

5 f. Nothing in this agreement shall be construed to protect the defendant from
6 administrative or civil forfeiture proceedings or prohibit the United States from proceeding
7 with and/or initiating an action for civil forfeiture.

8 Waiver of Defenses and Appeal Rights

9 Provided the defendant receives a sentence consistent with this agreement that does
10 not exceed the statutory maximum or any stipulated sentence, the defendant waives (1) any
11 and all motions, defenses, probable cause determinations, and objections that the defendant
12 could assert to the indictment or information; and (2) any right to file an appeal, any
13 collateral attack, and any other writ or motion that challenges the conviction, an order of
14 restitution or forfeiture, the entry of judgment against the defendant, or any aspect of the
15 defendant's sentencing-including the manner in which the sentence is determined, and any
16 sentencing guideline determinations. The defendant further waives: (1) any right to appeal
17 the Court's entry of judgment against defendant; (2) any right to appeal the imposition of
18 sentence upon defendant under Title 18, United States Code, Section 3742 (sentence
19 appeals); (3) any right to appeal the district court's refusal to grant a requested variance;
20 (4) any right to collaterally attack defendant's conviction and sentence under Title 28,
21 United States Code, Section 2255, or any other collateral attack; and (5) any right to file a
22 motion for modification of sentence, including under Title 18, United States Code, Section
23 3582(c) (except for the right to file a compassionate release motion under 18 U.S.C. §
24 3582(c)(1)(A) and to appeal the denial of such a motion). The defendant acknowledges
25 that this waiver shall result in the dismissal of any appeal or collateral attack the defendant
26 might file challenging the defendant's conviction or sentence in this case. If the defendant
27 files a notice of appeal or a habeas petition, notwithstanding this agreement, the defendant
28 agrees that this case shall, upon motion of the government, be remanded to the district court

1 to determine whether the defendant is in breach of this agreement and, if so, to permit the
2 government to withdraw from the plea agreement. This waiver shall not be construed to
3 bar an otherwise-preserved claim of ineffective assistance of counsel or of "prosecutorial
4 misconduct" (as that term is defined by Section II.B of Ariz. Ethics Op. 15-01 (2015)).

5 Reinstitution of Prosecution

6 Nothing in this agreement shall be construed to protect the defendant in any way
7 from prosecution for perjury, false declaration or false statement, or any other offense
8 committed by the defendant after the date of this agreement. In addition, if the defendant
9 commits any criminal offense between the date of this agreement and the date of
10 sentencing, the government will have the right to withdraw from this agreement. Any
11 information, statements, documents and evidence which the defendant provides to the
12 United States pursuant to this agreement may be used against the defendant in all such
13 proceedings.

14 If the defendant's guilty plea is rejected, withdrawn, vacated, or reversed by any
15 court in a later proceeding, the government will be free to prosecute the defendant for all
16 charges as to which it has knowledge, and any charges that were dismissed because of this
17 plea agreement will be automatically reinstated. In such event, the defendant waives any
18 objections, motions, or defenses based upon the Speedy Trial Act or the Sixth Amendment
19 to the Constitution as to the delay occasioned by the later proceedings. The defendant
20 agrees that the stipulations set forth under "Agreements Regarding Sentence" will not be
21 offered if prosecution is re-instituted.

22 Plea Addendum

23 This written plea agreement, and any written addenda filed as attachments to this
24 plea agreement, contain all the terms and conditions of the plea. Any additional
25 agreements, if any such agreements exist, shall be recorded in a separate document and
26 may be filed with the Court under seal. Accordingly, additional agreements, if any, may
27 not be in the public record.
28

WAIVER OF DEFENDANT'S RIGHTS AND FACTUAL BASIS

Waiver of Rights

I have read each of the provisions of the entire plea agreement with the assistance of counsel and understand its provisions. I have discussed the case and my constitutional and other rights with my attorney. I understand that by entering my plea of guilty I will be giving up my right to plead not guilty; to trial by jury; to confront, cross-examine, and compel the attendance of witnesses; to present evidence in my defense; to remain silent and refuse to be a witness against myself by asserting my privilege against self-incrimination; all with the assistance of counsel; to be presumed innocent until proven guilty beyond a reasonable doubt; and to appeal.

I agree to enter my guilty plea as indicated above on the terms and conditions set forth in this agreement.

I have been advised by my attorney of the nature of the charge to which I am entering my guilty plea. I have been advised by my attorney of the nature and range of the possible sentence, and that I will not be able to withdraw my guilty plea if I am dissatisfied with the sentence the court imposes.

My guilty plea is not the result of force, threats, assurances or promises other than the promises contained in this agreement. I agree to the provisions of this agreement as a voluntary act on my part, rather than at the direction of or because of the recommendation of any other person, and I agree to be bound according to its provisions. I agree that any potential sentence referred to herein or discussed with my attorney is not binding on the Court and is merely an estimate.

I agree that this written plea agreement contains all the terms and conditions of my plea and that promises made by anyone (including my attorney) that are not contained within this written plea agreement are without force and effect and are null and void.

I am satisfied that my defense attorney has represented me in a competent manner.


1 I am not now on or under the influence of any drug, medication, liquor, or other
 2 intoxicant or depressant, which would impair my ability to fully understand the terms and
 3 conditions of this plea agreement.

4 Factual Basis and Relevant Conduct

5 I further agree that the following facts accurately describe my conduct in connection
 6 with the offense to which I am pleading guilty and that if this matter were to proceed to
 7 trial the government could prove the elements of the offense beyond a reasonable doubt,
 8 but this is not meant to be a complete recitation of all facts relevant to the underlying
 9 criminal conduct or all facts known to either party that relate to that conduct:

10
 11 On or about December 4, 2023, in the District of Arizona, I, Manuel David
 12 Mora, was knowingly present in the United States pursuant to a B1/B2 non-
 13 immigrant Visa and was aware of my non-immigrant legal status. On
 14 December 4, 2023, at or near Phoenix Arizona, I knowingly received and
 15 possessed firearms, to wit: twelve (12) AK-47 pattern semi-automatic rifles.
 I also possessed at the same time several 30-round magazines that these rifles
 could accept. I acknowledge these rifles had travelled in interstate commerce,
 could accept high-capacity magazines, and several of these rifles had
 obliterated serial numbers. I possessed these rifles with the knowledge and
 intent they would be transported outside of the United States.

16
 17 12.5.24
 18 Date


 19
 20 Manuel David Mora Garcia
 Defendant

21 DEFENSE ATTORNEY'S APPROVAL

22 I have discussed this case and the plea agreement with my client in detail and have
 23 advised the defendant of all matters within the scope of Rule 11, Fed. R. Crim. P., the
 24 constitutional and other rights of an accused, the factual basis for and the nature of the
 25 offense to which the guilty plea will be entered, possible defenses, and the consequences
 26 of the guilty plea, including the defendant's waiver of the right to appeal. No assurances,
 27 promises, or representations have been given to me or to the defendant by the government
 28 or by any of its representatives which are not contained in this written agreement. I concur
 in the entry of the plea as indicated above and on the terms and conditions set forth in this

1 agreement as in the best interests of my client. I agree to make a bona fide effort to ensure
2 that the guilty plea is entered in accordance with all the requirements of Rule 11, Fed. R.
3 Crim. P.

4
5
6 Date

7
8
9 John Connelly
Attorney for Defendant

10 GOVERNMENT'S APPROVAL

11 I have reviewed this matter and the plea agreement. I agree on behalf of the United
12 States that the terms and conditions set forth are appropriate and are in the best interests of
13 justice.

14
15
16 GARY M. RESTAINO
United States Attorney
District of Arizona

17
18
19 Date

20
21
22 Digitally signed by KEVIN SCHIFF
Date: 2024.03.19 13:36:33 -07'00'

23
24
25 Kevin D. Schiff
Assistant U.S. Attorney